

## § 40.23

(4) *Pricing of seconds.* If some of an otherwise identical cigar brand and size:

(i) Are distinctive from other such cigars because of physical imperfections, (ii) Are offered to the consumer through clear labeling as “imperfects”, “seconds”, “throw-outs”, or a comparable commonly understood term, and

(iii) The manufacturer has a separate sale price for such cigars, then they are taxed on the basis of this separate sale price.

(5) *Combination packages.* If a manufacturer has a sale price for a combination package containing cigars of different sizes, the cigars are taxed based on that combination sale price. If there is no sale price for the combination, then the cigars are taxed based on their individual sale prices.

(6) *Removals for another person.* If a manufacturer makes taxable removals of a brand and size of cigar only for distribution by others who establish the sale price, the tax is based on such sale price even though the manufacturer who makes the removals does not establish the price.

[T.D. ATF-420, 64 FR 71939, Dec. 22, 1999, as amended by T.D. TTB-91, 76 FR 5479, Feb. 1, 2011]

## § 40.23 Cigarette tax rates.

Cigarettes are taxed at the following rates under 26 U.S.C. 5701(b):

Product	Tax rate per thousand for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Small cigarettes .....	\$19.50 .....	\$50.33
Large cigarettes up to 6½" long.	\$40.95 .....	\$105.69
Large cigarettes over 6½" long.	Taxed at the rate for small cigarettes, counting each 2¾" or fraction thereof of the length of each as one cigarette.	

[T.D. TTB-75, 74 FR 14482, Mar. 31, 2009]

## § 40.24 Classification of cigarettes.

For tax purposes, small cigarettes are designated Class A and large cigarettes are designated Class B.

(72 Stat. 1414; 26 U.S.C. 5701)

## 27 CFR Ch. I (4–1–16 Edition)

## § 40.25 Smokeless tobacco tax rates.

Smokeless tobacco products are taxed at the following rates under 26 U.S.C. 5701(e):

Product	Tax rate per pound* for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Snuff .....	\$ 0.585 .....	\$ 1.51
Chewing tobacco .....	\$ 0.195 .....	\$ 0.5033

\* Prorate tax for fractions of a pound.

[T.D. TTB-75, 74 FR 14482, Mar. 31, 2009]

## § 40.25a Pipe tobacco and roll-your-own tobacco tax rates and classification.

(a) *Tax rates.* Pipe tobacco and roll-your-own tobacco are taxed at the following rates under 26 U.S.C. 5701(f) and (g), respectively:

Product	Tax rate per pound* for removals during the following periods:	
	2002 to March 31, 2009	April 1, 2009 and after
Pipe tobacco .....	\$ 1.0969 .....	\$ 2.8311
Roll-your-own tobacco ....	\$ 1.0969 .....	\$ 24.78

\* Prorate tax for fractions of a pound.

(b) *Classification.* (1) Pipe tobacco and roll-your-own tobacco, before removal subject to tax, must be put up in packages that conform to the requirements of §§ 40.211 and 40.212, and of § 40.216a or § 40.216b as appropriate.

(2) Any tobacco that has been processed and that is removed in a package, as that term is defined in § 40.11, that does not bear the notice for smokeless tobacco prescribed in § 40.216 or the notice for pipe tobacco prescribed in § 40.216a is deemed to be roll-your-own tobacco and subject to tax at the rate applicable to roll-your-own tobacco. A container of processed tobacco, the contents of which weigh 10 pounds or less (including any added non-tobacco ingredients or constituents), that is removed within the meaning of this part for any purpose other than destruction, export, delivery as a sample to a manufacturer of processed tobacco or tobacco products for the purpose of soliciting orders of processed tobacco, or scientific testing or testing of equipment which results in the destruction of the processed tobacco or the return of the processed tobacco to the factory